

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PHILIPS NORTH AMERICA LLC,
et al.,

Plaintiffs,

v.

SUMMIT IMAGING INC., et al.,

Defendants.

CASE NO. C19-1745JLR

ORDER BIFURCATING AND
STAYING ANTITRUST
COUNTERCLAIMS

On November 23, 2020, the court instructed the parties to show cause on whether the court should bifurcate Defendants Summit Imaging Inc. and Lawrence R. Nguyen's (collectively, "Summit") counterclaims from Plaintiffs Philips North America, LLC, Koninklijke Philips N.V., and Philips India, Ltd.'s (collectively, "Philips") claims under Federal Rule of Civil Procedure 42(b). (11/23/20 Order (Dkt. # 77) at 4-5.) Both parties responded. (Pls. Resp. (Dkt. # 88); Defs. Resp. (Dkt. # 89).) Since the court's order, Summit has also submitted its amended answer. (Am. Ans. (Dkt. # 83).) The court has

1 considered the above materials and the relevant law. Being fully advised, the court
2 BIFURCATES Summit's first and second counterclaims brought under the Sherman
3 Antitrust Act and STAYS those counterclaims pending resolution of Philips's claims.

4 A district court's authority to bifurcate comes from Federal Rule of Civil
5 Procedure 42(b), which states, "[f]or convenience, to avoid prejudice, or to expedite and
6 economize, the court may order a separate trial of . . . counterclaims." Fed. R. Civ. P.
7 42(b). The decision to bifurcate is in the sound discretion of the trial court. *Hangarter v.*
8 *Provident Life & Acc. Ins. Co.*, 373 F.3d 998, 1021 (9th Cir. 2004). Courts weigh several
9 factors, including convenience, prejudice, and judicial economy. *Bowoto v. Chevron*
10 *Corp.*, No. C99-02506SI, 2008 WL 2074401, at *1 (N.D. Cal. May 15, 2008).
11 Bifurcation is particularly appropriate when resolution of a single claim or issue could be
12 dispositive of the entire case. *Karpenski v. Am. Gen. Life Cos., LLC*, 916 F. Supp. 2d
13 1188, 1190 (W.D. Wash. 2012). Accordingly, courts commonly bifurcate antitrust
14 counterclaims that are contingent upon resolution of the main case. *See Craigslist Inc. v.*
15 *3Taps Inc.*, 942 F. Supp. 2d 962, 982 (N.D. Cal. 2013).

16 Both parties submit that bifurcation and stay of the antitrust counterclaims here
17 promotes convenience and judicial economy.¹ (*See* Pls. Resp. at 2-3; Defs. Resp. at 1-2.)
18 As amended, Summit's antitrust counterclaims are conditional on Philips's success on its
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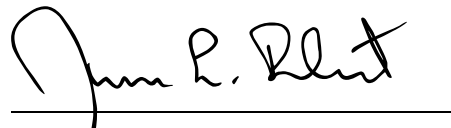
20 ¹ Philips maintains that Summit is "suggesting that [the antitrust counterclaims] should
21 proceed, on a separate trial schedule, in parallel with Philips's claims." (Pls. Resp. at 2.) But
22 Summit agrees that the conditional antitrust counterclaims "should be bifurcated and those
claims stayed until after the outcome of Philips'[s] claims." (Defs. Resp. at 1.) Thus, the parties
seem to have misunderstood each other's positions and created disagreement where none existed.

1 claims. (Am. Ans. ¶¶ 48, 52, 56-57, 58-61.) Thus, resolution of Philips's claims could
 2 be dispositive of Summit's antitrust counterclaims. The court agrees with both parties
 3 and accordingly bifurcates and stays Summit's antitrust counterclaims pending the
 4 resolution of Philips's claims.

5 The parties also submit that Summit's third counterclaim of copyright misuse
 6 should not be bifurcated.² (Pls. Resp. at 4; Defs. Resp. at 2-6.) The court again agrees.
 7 Because the copyright misuse counterclaim has substantial overlap with the copyright
 8 misuse affirmative defense and Philips's copyright-related claims, bifurcation would not
 9 serve convenience or judicial efficiency. Both parties, however, include unrelated
 10 arguments on purported discovery disputes related to the copyright misuse counterclaim.
 11 (Pls. Resp. at 5; Defs. Resp. at 5.) The court reminds the parties that a response on
 12 bifurcation is not the appropriate vehicle to bring or argue discovery disputes.

13 Accordingly, the court BIFURCATES Summit's first and second counterclaims
 14 under the Sherman Antitrust Act and STAYS those counterclaims pending the resolution
 15 of Philips's claims.

16 Dated this 16th day of December, 2020.

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19 JAMES L. ROBART
 20 United States District Judge

21 ² Again, the parties seem to misunderstand each other. Summit represents that "Philips
 22 has taken the position that the [c]opyright [m]isuse [c]laim should also be bifurcated." (Defs.
 Resp. at 2.) But Philips "proposes bifurcation of the 'conditional' antitrust counterclaims—and
 not the third misuse counterclaim." (Pls. Resp. at 4.)